

Agricultural Marketing Service, USDA

§ 52.28

place where the processed product is located.

(b) The application for appeal inspection shall state the location of the lot of processed products and the reasons for the appeal; and date and serial number of the certificate covering inspection of the processed product on which the appeal is requested, and such application may be accompanied by a copy of the previous inspection certificate and any other information that may facilitate inspection. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation shall be made promptly.

[22 FR 3535, May 22, 1957. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 51 FR 20439, June 5, 1986]

§ 52.25 When an application for an appeal inspection may be withdrawn.

An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided*, That, the applicant shall pay at the hourly rate prescribed in § 52.42, for the time incurred by the inspector in connection with such application, any travel expenses, telephone, telegraph, or other expenses which have been incurred by the inspection service in connection with such application.

[22 FR 3535, May 22, 1957, as amended at 38 FR 25166, Sept. 12, 1973. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

§ 52.26 When appeal inspection may be refused.

An application for an appeal inspection may be refused if:

(a) The reasons for the appeal inspection are frivolous or not substantial;

(b) The quality or condition of the processed product has undergone a material change since the inspection covering the processed product on which the appeal inspection is requested;

(c) The lot in question is not, or cannot be made accessible for the selection of officially drawn samples;

(d) The lot relative to which appeal inspection is requested cannot be positively identified by the inspector as the

lot from which officially drawn samples were previously inspected; or

(e) There is noncompliance with the regulations in this part. Such applicant shall be notified promptly of the reason for such refusal.

§ 52.27 Who shall perform appeal inspection.

An appeal inspection shall be performed by an inspector or inspectors (other than the one from whose inspection the appeal is requested) authorized for this purpose by the Administrator and, whenever practical, such appeal inspection shall be conducted jointly by two such inspectors: *Provided*, That, the inspector who made the inspection on which the appeal is requested may be authorized to draw the samples when another inspector or licensed sampler is not available in the area where the product is located.

§ 52.28 Appeal inspection certificate.

After an appeal inspection has been completed, the lot(s) cannot be further appealed unless authorized by the Administrator. An appeal inspection certificate shall be issued, showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the processed product involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality or condition of the processed product described therein. The inspector or inspectors issuing an appeal inspection certificate shall forward notice of such issuance to such persons as he considers necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the inspector or inspectors issuing the appeal inspection certificate. The provisions in the regulations in this part concerning forms and certificates, issuance of certificates, and disposition of certificates shall apply to appeal inspection certificates, except that copies of such appeal